

REMARKS

Claims 1-8 and 10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over FR 2,747,908 to Chout in view of U.S. Patent Pub. No. 2003/0139775 to Grafton and further in view of U.S. Patent No. 6,086,578 to Adamyan et al. The rejections are respectfully traversed.

The Chout reference discloses a suture material attached to a needle. According to the Office action, the suture material is a bioresorbable material or gold, but not both. In particular, the Office action acknowledges that “Chout does not disclose the suture having a braided composition nor does he specifically disclose that the gold and bioabsorbable material are used in the same piece of suture.” Office Action, p. 2, ¶ 3.

The Grafton reference discloses a high strength surgical suture featuring a braided cover made from a blend of ultrahigh molecular weight long chain polyethylene fibers and fibers of one or more long chain synthetic polymers. Grafton, p. 1, ¶ 6. The braided suture may be attached to a needle. Grafton, p. 2, ¶ 31. However, the Grafton reference makes no mention of forming a suture from gold thread, let alone gold thread braided together with bioabsorbable thread.

The Adamyan et al. reference discloses a method for rejuvenating skin by implanting a plurality of gold threads and resolving polyglycol threads in a subdermal space below the rejuvenated skin. Adamyan, col. 1, ll. 56-65. The threads are connected to a needle to facilitate positioning the threads below the skin. Adamyan, col. 1, ll. 66-67.

Thus, the Office action argues that the pending claims of the present application are obvious over the combination of the Chout reference, the Grafton reference and the Adamyan et al. reference. Applicants respectfully disagree and submit that none of the references cited in the Office action, alone or in combination, teach or suggest a braided structure including at least one gold thread, at least one bioabsorbable thread braided with the gold thread to form an elongated suture having a distal end and a proximal end, and a needle connected to the distal end of the suture.

Rejections under 35 U.S.C. § 103(a) require the Examiner to establish a *prima facie* case

of obviousness. MPEP § 2142. The basic requirements of a *prima facie* case of obviousness include a factual showing (1) that “there is some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art ... to combine reference teachings,” (2) that there is a “reasonable expectation of success” and (3) that the prior art references, when combined, “teach or suggest all the claim limitations.” MPEP § 2143.

It is submitted that the Office action fails to address and satisfy each of the three basic requirements of a *prima facie* case of obviousness and, accordingly, withdrawal of the rejections is respectfully requested.

The Examiner’s proposed combination of the Chout, Grafton and Adamyan et al. references fails to teach each and every limitation of the pending claims of the present application. In particular, the Chout reference merely teaches a suture connected to a needle, the Grafton reference merely teaches a braided suture connected to a needle, the braided suture being formed entirely of polymeric materials, and the Adamyan et al. reference merely teaches implanting gold threads and resolving polyglycol threads beneath the skin. None of the references cited in the Office action teach or suggest a bioabsorbable thread braided together with a gold thread, as expressly required by the pending claims of the present application. Therefore, it is submitted that the Examiner’s proposed combination of the Chout, Grafton and Adamyan et al. references fails to teach or suggest each and every limitation of the pending claims of the present application.

Furthermore, assuming *arguendo* that all limitations of the pending claims are taught by the Examiner’s proposed combination, the Office action is silent as to how or why one skilled in the art would be motivated to make the Examiner’s proposed combination of the Chout, Grafton and Adamyan et al. references. It is submitted that no such suggestion or motivation exists in the prior art cited in the Office action and, therefore, withdrawal of the outstanding rejections is respectfully requested.

Applicants concede that one skilled in the art could be suggested or motivated by the

prior art to combine the teachings of the Grafton reference (i.e., braided suture connected to a needle) with the teachings of the Chout reference (i.e., non-braided suture connected to a needle), as both references are directed to suture/needle structures for suturing tissue. However, it is submitted that the prior art cited in the Office action offers no suggestion or motivation to combine the teachings of the Adamyan et al. reference (i.e., implantable threads) with the teachings of the Grafton and/or Chout references (i.e., suture/needle structures) to arrive at the claimed structure.

In particular, the Adamyan et al. reference teaches using gold threads as subcutaneous implants for removing wrinkles in the skin and makes no mention of using gold threads to form sutures for suturing together tissue. The gold threads taught by the Adamyan et al. reference are merely deposited beneath the skin and are not used as sutures. In contrast, the Grafton and Chout references are directed to sutures for suturing together tissue and make no mention of subcutaneous implants or deposits. Therefore, it is submitted that the Adamyan et al. reference teaches away from the Grafton and Chout references such that one skilled in the art would not be motivated to make the Examiner's proposed combination.

Still furthermore, it is submitted that there is no reasonable expectation that one making the Examiner's proposed combination of the Chout, Grafton and Adamyan et al. references would be successful. Therefore, it is submitted that a *prima facie* case of obviousness cannot be established based upon the combination of the Chout, Grafton and Adamyan et al. references.

It is well known that sutures should have sufficient tensile strength to allow a physician to pull on the suture to close a sutured laceration. The Grafton and Chout references offer such high strength sutures. *See* Grafton (title: "High Strength Suture with Colored Trace at One End"). In contrast, the implants taught by the Adamyan et al. reference "consist of a fragile, easily broken golden thread." Adamyan, col. 2, ll. 8-9. Therefore, upon learning of the fragile nature of gold threads based upon the teachings of the Adamyan et al. reference, it is submitted that one skilled in the art would not reasonably expect to be successful when forming a suture from gold thread. Therefore, it is submitted that the Examiner's proposed combination of the

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Chout, Grafton and Adamyan et al. references offers no reasonable expectation of success and, accordingly, cannot form the basis of a proper rejection under § 103(a).

Accordingly, it is submitted that the Office action fails to establish a *prima facie* case of obviousness and withdrawal of the rejections of claims 1-8 and 10 under § 103(a) is respectfully requested.

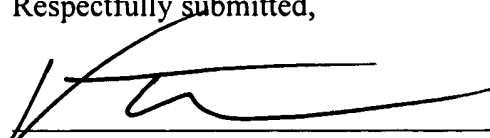
Claim 9 is rejected under 35 U.S.C. § 103(a) as being unpatentable over the Chout reference in view of the Adamyan et al. reference in view of the Grafton reference and further in view of U.S. Patent Pub. No. 2004/0092966 to Nobles et al. For the reasons expressed above with respect to claims 1-8 and 10, the rejection of claim 9 is respectfully traversed.

Claims 11-16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the Adamyan et al. reference in view of the Grafton reference. Claims 11-16 are method claims that require the use of a suture formed from gold threads braided together with bioabsorbable threads. Therefore, for the reasons expressed above, the rejections of claim 11-16 are respectfully traversed.

Accordingly, it is submitted that the pending claims of the present application is in condition for allowance and formal notice thereof is respectfully requested.

The Commissioner is hereby authorized to treat any paper that is filed in this application, which requires an extension of time, as incorporating a request for such an extension. 37 C.F.R. § 1.136(a)(3). The Commissioner is further authorized to charge any fees required by this paper or to credit any overpayment to Deposit Account No. 20-0809.

Respectfully submitted,



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